United Nations S/PV.6342

Security Council

Sixty-fifth year

Provisional

6342nd meeting

Friday, 18 June 2010, 10 a.m.

New York

President:	Mr. Heller	(Mexico)
Members:	Austria	Mr. Mayr-Harting
	Bosnia and Herzegovina	Mr. Barbalić
	Brazil	Mr. Moretti
	China	Ms. Guo Xiaomei
	France	Ms. Le Fraper du Hellen
	Gabon	Mr. Moungara Moussotsi
	Japan	Mr. Takasu
	Lebanon	Mr. Assaf
	Nigeria	Mr. Lolo
	Russian Federation	Mr. Churkin
	Turkey	Mr. Apakan
	Uganda	Mr. Rugunda
	United Kingdom of Great Britain and Northern Ireland	Mr. Parham
	United States of America	Ms. Anderson

Agenda

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January 1994 and 31 December 1994

Letter dated 31 May 2010 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 addressed to the President of the Security Council (S/2010/270)

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room U-506.

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Letter dated 28 May 2010 from the President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January 1994 and 31 December 1994, addressed to the President of the Security Council (S/2010/259)

The meeting was called to order at 10.10 a.m.

Adoption of the agenda

The agenda was adopted.

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

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The President (*spoke in Spanish*): I should like to inform the Council that I have received letters from the representatives of Croatia, Kenya, Rwanda and Serbia, in which they request to be invited to participate in the consideration of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite those representatives to participate in the consideration of the item without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, the representatives of the aforementioned countries took the seats reserved for them at the side of the Council Chamber.

The President (*spoke in Spanish*): In accordance with the understanding reached in the Council's prior consultations, I shall take it that the Security Council agrees to extend invitations under rule 39 of its provisional rules of procedure to Judge Patrick Robinson, President of the International Tribunal for the Former Yugoslavia; Judge Dennis Byron, President of the International Criminal Tribunal for Rwanda; Mr. Serge Brammertz, Prosecutor of the International Tribunal for the Former Yugoslavia; and Mr. Hassan Bubacar Jallow, Prosecutor of the International Criminal Tribunal for Rwanda.

It is so decided.

The Security Council will now begin its consideration of the item on its agenda. The Security Council is meeting in accordance with the understanding reached in its prior consultations.

I wish to draw the attention of Council members to the following documents: S/2010/270, which contains the text of a letter dated 31 May 2010 from the President of the International Tribunal for the Former Yugoslavia; and S/2010/259, which contains the text of a letter dated 28 May 2010 from the President of the International Criminal Tribunal for Rwanda.

At this meeting, the Security Council will hear briefings by the President of the International Tribunal for the Former Yugoslavia, the President of the International Criminal Tribunal for Rwanda and the Prosecutors of those two International Tribunals.

I now give the floor to Judge Patrick Robinson.

Judge Robinson: It is an honour for me to appear before the Security Council today in my capacity as President of the International Criminal Tribunal for the Former Yugoslavia, and particularly to do so under the presidency of Mexico. I congratulate Mexico on its assumption of the presidency of the Council, and I thank the President for the attention that he has given to matters pertaining to the Tribunal.

As the Tribunal's completion strategy report (see S/2010/270) bears witness, the Tribunal has continued

to work as efficiently and as expeditiously as possible in accordance with the highest of international due process. The Tribunal has now commenced all of the trials pending on its docket and conducted proceedings in 10 trials simultaneously in its three court rooms. It has managed to do that by, inter alia, doubling up judges and staff so that they are working on more than one case simultaneously.

Nevertheless, there has been significant slippage in the trial schedule. There are valid and unavoidable reasons for that slippage, and the report clearly identifies all the factors in relation to each trial that have led to revised estimates of completion. It will not surprise the Council to learn that the doubling-up of judges and staff are contributory factors. The scheduling of hearings, deliberations and consultations has been complicated by the need to take into account the obligations of judges and staff to other cases.

It must be underscored that the trial schedule produced by the Tribunal is not akin to a bus schedule. At most, it is a forecast subject to constant change depending on the course that a trial takes. The anticipated completion dates in the trial schedule are estimated on the basis of factors within the Tribunal's control. But unforeseeable factors beyond the control of the Tribunal emerge, resulting in unavoidable delays. For example, it would have been impossible to anticipate the death of the lead counsel in *Stanišić and Simatović*; the volte-face of Šešelj in deciding at this stage to raise a defence; the extensive litigation in *Gotovina et al.*, resulting from the investigations carried out by the Croatian Government; or an application by the prosecution to amend the indictment to add significant new charges on the eve of the trial, as happened in the *Tolimir* case.

But most significantly, the *Prlić et al.* case, the *Stanišić and Simatović* case, the *Stanišić and Župljanin* case, the *Karadžić* case and the *Šešelj* case could not have foreseen the discovery of new evidence by the national authorities of Serbia, namely 18 military notebooks of Ratko Mladić, allegedly written during the period 1991 to 1995. The discovery of that new evidence has the potential to substantially impact the projected completion dates of seven of the nine ongoing trials. Thus, I must emphasize that the schedule I present today is a forecast subject to change.

Yet another very significant reason for slippage in the Tribunal's trial schedule is the alarming rate of staff attrition, coupled with the fact that throughout the reporting period, the Tribunal has been running 10 trials simultaneously, with staff levels appropriate for six trials. That has created a tremendous burden on both staff and judges, and it has become even more onerous with the constant departure of the Tribunal's highly experienced staff for more secure employment elsewhere. Staff attrition and the desperate need for urgent action in stemming that flow are factors that I have repeatedly stressed to the utmost degree in my previous presentations to the Security Council and the General Assembly. Quite frankly, I am at a loss as to what more might be done or said on my part to turn the Council's attention to this issue.

I reiterate that staff are leaving the Tribunal in droves — three every five days — for greater job security with other institutions, often within the United Nations itself. I must therefore warn the Council that as the report demonstrates, this factor is having an adverse impact on the expeditious completion of all but one of our trials. And it will worsen. Our trials will be further delayed by staff attrition.

There are measures that can be taken, and the first is the granting of permanent contracts to our staff, which would provide them with an incentive to remain with the Tribunal until the completion of their work. They would have the security of knowing that, if the United Nations cannot place them in another position by the time their posts expire, they will nonetheless be compensated and that compensation will buy them the time they need to find another position. I know from talking to staff that the granting of permanent contracts would be a tremendous incentive for them to stay at the Tribunal until the completion of their work.

But while many of our staff have accrued the right to be considered for permanent contracts under the rules and regulations of the United Nations, I have had to fight exceedingly hard to ensure that that right is respected. It had first been posited that our staff be excluded on the grounds that they are staff of a United Nations institution with a finite mandate and not staff of the United Nations as such. Following extensive lobbying on my part against this discrimination towards our staff, their right to be considered for permanent contractual status is now being respected. But I fear that our staff will, at the end of the day, still suffer discrimination and be denied permanent contracts on discriminatory grounds. I urge the Council to assist the Tribunal in ensuring that this does not

happen. It would not only be of great detriment to our staff, but it would have profound effects on the Tribunal's ability to complete its mandate as expeditiously as possible, because staff would continue to leave.

A second measure that can be adopted relates to General Assembly resolution 63/256 of December 2008, which authorized the Tribunal to offer contracts to staff in line with planned post reductions and the prevailing trial schedules. This was a measure adopted by the General Assembly to allow the Tribunal to offer a measure of job security to staff. The background to this resolution was that the Tribunal had proposed a staff retention bonus. This was rejected, and instead resolution 63/256 incorporated a non-financial measure. Yet, it has not been implemented because the budgetary authorities at United Nations Headquarters do not consider that the Tribunal can offer contracts to staff that are not tied to approved budgetary submissions.

As I explain in the report, when this resolution was brought to my attention by the Tribunal's Staff Union, I went to the International Civil Service Commission — which was involved in the process leading up to the adoption of the resolution — and to members of the Fifth Committee and asked them to explain to me what the resolution meant. I was advised by every person I consulted that it allowed the Tribunal to offer contracts in line with the trial schedules. On its face, this is clearly what the resolution authorizes, but the Tribunal cannot implement it without a clear authorization from the Controller's Office because fiscal responsibility to the Registrar is only delegated authority.

Now I ask: How can the General Assembly, the principal organ of a body like the United Nations whose membership is worldwide, adopt a resolution unambiguous in language and purpose and on the basis of which constituent bodies such as the Tribunal make plans, only to be told by the budgetary authorities in New York that the resolution does not mean what it clearly says? The Tribunal has been severely prejudiced by this misstep in the United Nations. It cannot offer contracts in line with prevailing trial schedules, and therefore critical staff cannot be retained. In effect, the odd result is that the United Nations will not be implementing the resolution of the General Assembly in accordance with its plain interpretation. This must have a consequence for the management and efficiency of the Organization as a whole.

What we are now being told from high authority is that all that the resolution means is that the Tribunal can offer contracts, but that it must do so within the envelope of funds appropriated under the budget. But the Tribunal was always able to do that, and a resolution of the General Assembly is not necessary to tell the Tribunal that it can do something that it has always been able to do. This state of confusion would be delightfully risible did it not have such painful and dire consequences for the running of the Tribunal at this critically important stage of its life.

What is needed now is a pragmatic solution to extricate ourselves from the institutional muddle into which we have been immersed by the differences between the General Assembly and the administration. I ask the Security Council to assist the Tribunal as much as it can in resolving the interpretation and implementation of that General Assembly resolution, for what is certain is that, in the absence of the implementation of a measure of the kind set out in the resolution to assist in the retention of staff, the dates for the completion of the Tribunal's work will stretch further and further into the future. We want the Security Council to help us by using the influence and weight it undoubtedly has within the United Nations. The Council should adopt a statement acknowledging the problem faced by the Tribunal in retaining experienced staff at this time and requesting all the relevant United Nations bodies, including the administration, to adopt appropriate staff-retention measures.

A third measure that can be adopted to assist the Tribunal in retaining its staff, and thus completing its work, is the end-of-service grant recommended by the International Civil Service Commission, which is still pending in the Fifth Committee. Finally, the resolution of the new continuing contractual regime and the inclusion of Tribunal staff in that regime would have a tremendously beneficial impact upon the Tribunal's retention of its essential staff.

These are all matters that I, as President of the Tribunal, have been fighting for, but to be successful the Tribunal needs strong political support. I urge the Council to take measures now and to ensure that action is taken on these issues. I can only repeat my warning that a failure to take action immediately on the rate of

staff attrition at the Tribunal will have profound effects on the ability of the Tribunal to complete its mandate as expeditiously as possible. The situation will worsen.

In the face of the slippage in the trial schedule, the Tribunal has taken immediate measures to try as much as possible to mitigate that slippage. I reconstituted the Working Group on Speeding Up Trials to undertake a third review of the Tribunal's practices in order to assess whether further improvements could be implemented in our work. The Working Group submitted its report on 21 May and recommended a number of reforms to the Tribunal's procedures. The Judges discussed these reforms on 7 June at an extraordinary plenary session convened expressly for that purpose. The Judges are now actively integrating these reforms into their ongoing trials. I note that the problem of staff attrition is so serious that, in its report, the Working Group expressed its greatest concern over the effect that staff turnover has on the speed of trials and on the Chambers' ability to process the evidence and motions in their cases. The Working Group recommended that the management of the Tribunal do all that it can to keep experienced staff.

Another matter I again bring to the Council's attention is that of compensation to victims. In order to contribute to a lasting peace in the former Yugoslavia, justice must not only be retributive; it must also be restorative. The International Criminal Court and the 111 States that have ratified the Rome Statute accept the importance of compensation to victims of war crimes, crimes against humanity and genocide, and the United Nations must, I submit, do the same. I therefore call upon the Council to take action and to establish, as the International Criminal Court has, without further delay a trust fund for victims of crimes falling within the Tribunal's jurisdiction to complement the Tribunal's criminal trials by providing victims with the necessary resources to rebuild their lives.

The final issue that I wish to bring to the attention of Council members is the mandate of the Judges, a matter currently pending before the Council. Just as staff need job security, so do our Judges, and I urge the Council to bear in mind the benefits to the Tribunal's completion strategy of granting mandates to the judges in line with the projections I have provided to the Council through my letter to the Secretary-General up to 2013 in respect of those judges whose trial and appeals will be ongoing at that time, and up to 2014 for the remaining appeal judges. It is simply not rational to assign judges to cases that will last longer than their mandates.

In closing, I wish to reiterate that we at the Tribunal are dedicated to completing the work entrusted to us so that peace, justice and reconciliation may prevail in the region of the former Yugoslavia. We at the Tribunal have accepted this responsibility from the Security Council because we believe in this mission. However, we need more support from our parent organ, the Security Council. We are hanging by a thread and we need Council members to throw us a lifeline. And I have to say this very bluntly: Not helping us with staff retention measures is counterproductive because trials will take longer, appeals will take longer and the life of the Tribunal will be much longer.

I therefore again urge the Council to actively work with the other relevant organs of the United Nations for meaningful retention measures as a matter of urgency and specifically in the ways I have mentioned here today.

The President (*spoke in Spanish*): I thank Judge Patrick Robinson for his briefing.

I now give the floor to Judge Dennis Byron, President of the International Criminal Tribunal for Rwanda.

Judge Byron: I would like to start by congratulating the representative of Mexico on his country's current presidency of the Security Council. I wish you, Sir, a successful tour of duty.

Today, it is my honour to present to the members of the Security Council the thirteenth completion strategy report (S/2010/259) of the International Criminal Tribunal for Rwanda (ICTR). I would like to begin by expressing the gratitude of the entire Tribunal to the Governments of Council members and to the Secretariat for their continuous trust and support on all levels over the past six months.

Since I last addressed the Council in December 2009 (see S/PV.6228) the Tribunal has rendered two trial and two appeal judgements. The number of remaining judgements to be delivered at the trial level is now down to 13. We expect judgements in seven trials with respect to 15 accused before the end of 2010. The remaining six judgements with respect to 11 accused will be delivered during the course of 2011.

Two of the three ongoing trials and the two trials that are yet to commence will continue into 2011.

The two single-accused cases currently in evidence phase, the *Ngirabatware* and *Nzabonimana* trials, are taking significantly longer than expected, with judgements now expected for the second half of next year. I would like to highlight two main reasons for the delay in the completion of the evidence phase. First, the parallel involvement of the judges in several other trials makes scheduling particularly difficult in case of unexpected delays. The second and important reason is fair trial requirements — in both cases linked, among others things, to an alibi defence that required cooperation from a Member State.

Our planning for the rest of this year and the beginning of 2011 concentrates, apart from the ongoing trial work, on judgement drafting in all remaining cases. The expected judgement delivery in several cases before the end of 2010 will reduce the remaining trial workload and free up time for some of our judges to hear special depositions for the preservation of evidence against the remaining highest-level fugitives. We also expect several proceedings for contempt of court; investigations are ongoing and could lead to prosecution in up to six cases.

I am, of course, well aware of the unpredictability of certain factors impacting the judicial calendar, but we believe that our goal of completing the first instance trials based on the current workload within the next year can be achieved. For the appeals, this means maintaining the goal of completion by the end of 2013 in relation to the ICTR cases.

Yet, as my colleague did, I need to draw once more the attention of the Council to the difficult staffing situation at the Tribunal and the possibility that this challenging situation could lead to additional delays. I have mentioned this before. The high turnover and the difficulties in recruitment in Chambers and in the Office of the Prosecutor, are amongst the principal obstacles to meeting our goals for judgement delivery in the remaining cases. I mentioned in my written completion strategy report the departure of 154 staff members during the past year. For Chambers alone, the number is 24 — roughly half of our staffing level.

Let me take one of our multi-accused cases, the so-called military trial, as an example. That trial spanned 395 trial days. The Chamber heard 216 witnesses and admitted 965 exhibits. Familiarity with the evidence, which covers several thousand pages of transcripts, is indispensable for everyone involved in the drafting of a judgment. With these figures in mind, Council members can imagine the impact of the departure of members of the drafting team, including the judgment coordinator, only a few months before the expected judgment date.

The Tribunal works intensely on reducing internal delays in recruitment. But even if we were to do our utmost and have a replacement in place when the current incumbent leaves, no one could be realistically expected to familiarize himself or herself with the amount of evidence involved in less than several months. The situation in two other multi-accused cases is comparable. Delays in the judgment delivery in cases of this nature are therefore unavoidable.

The Council may wish to consider issuing a statement expressing its understanding for the difficult situation of staff retention and recruitment at the Tribunal and to encourage further work with the relevant United Nations bodies to address these problems.

This week, the Tribunal submitted the revised estimates for the rest of the 2010-2011 biennium budget to the Controller. The delays I have just set out will require additional resources. I urge Council members to be aware that providing us with the necessary resources now will help to prevent longer delays in the Tribunal's completion of its work.

I have asked that the Secretary-General bring a number of requests to the Council for consideration. In line with the revised trial schedule, the terms of office of all but two of our judges will need to be extended. In addition, we are facing a particular situation at the Tribunal with a very small number of permanent judges — a number insufficient to fill the key positions, in particular the President and Presiding Judge of a Trial Chamber next year. We will also need a new roster of ad litem judges to be appointed in case there are new arrests or unexpected unavailability of the currently serving judges if we do not want to risk additional delays.

With regard to the terms and conditions of service of the ad litem judges, I welcome the adoption of General Assembly resolution 64/261, which decided that this item will be dealt with as a priority at the sixty-fifth session this autumn. The large majority of judges on the benches of the two new trials will be ad

With regard to judicial proceedings, my office supports national prosecutions and the important work of the Special Department of War Crimes in the Office of the State Prosecutor of Bosnia and Herzegovina. We strongly encourage the authorities and the international community to carry on providing the necessary support for the prosecution of war crimes cases.

My Office continues to provide assistance to national prosecutors in order to ensure the transition to domestic prosecution of war crimes cases. Building the capacity of local courts to try war crimes is not only critical to the success of the Tribunal's completion strategy and legacy, but also essential for lasting justice. As forecast in my last report, we have now completed the transfer of cases and investigation files to courts and prosecution offices in the region. There is still a regular exchange of information and knowledge in relation to this material.

We also continue to support ongoing cooperation and capacity-building projects. In this regard, I would specifically like to record my gratitude to the European Union for extending the funding of the successful project of liaison prosecutors and young professionals from the region who work in my Office. I also encourage all authorities in the region to strengthen regional cooperation in order to address war crimes cases. I note recent improvement in certain areas and the conclusion of important judicial cooperation agreements. However, further efforts are necessary if there is to be a coordinated approach to war crimes prosecutions across the region.

As the High Representative, Mr. Inzko, said in this Chamber a few weeks ago (see S/PV.6319), recent conciliatory gestures from political leaders in the region have led to the creation of a space for new and constructive dialogue. It is only in such an environment, devoid of provocation, that the prosecutors and courts can do their work and further build upon the work of the Tribunal.

As announced last year, the Office of the Prosecutor has begun downsizing. In line with the step-by-step progress in trials and appeals, we have abolished 22 posts so far. Despite the slippage in the trial schedule and the fact that additional expenditure may be required, we are nevertheless continuing to follow a strict policy of decreasing staff levels as trials end.

In the longer term, our eyes are also now on the eventual closure of the Tribunal and what lies beyond. As our final trial work progresses in The Hague, discussions with the Working Group on the creation of a future regional mechanism are well under way. I welcome efforts already undertaken and important progress made in this regard by the Austrian chairmanship, the members of the Working Group and the Secretariat.

In July, in will be 15 years since the genocide that took place in Srebrenica, Bosnia and Herzegovina. Since then, an important number of high-level accused have been tried in The Hague and progress has been made in domestic war crimes prosecutions. However, the human tragedy of the war is still a vivid memory. As victims, the peoples of the former Yugoslavia and the international community continue to seek justice. That painful chapter of recent history can be properly closed only when all those responsible for serious violations of international humanitarian law have been brought to trial. Therefore, there can be no alternative to the immediate arrest of the two remaining fugitives, Mladić and Hadžić.

I thank the Council very much for its continued support.

The President (*spoke in Spanish*): I thank Mr. Brammertz for his statement.

I now give the floor to Mr. Hassan Bubacar Jallow, Prosecutor of the International Criminal Tribunal for Rwanda.

Mr. Jallow: I am honoured to have been given the opportunity to report once again to the Security Council on the state of the completion strategy at the International Criminal Tribunal for Rwanda (ICTR).

When I reported here six months ago, I indicated that the Office of the Prosecutor at the ICTR would focus its efforts in the ensuing six months on several fronts: preparations for the trials of the two new arrestees, Ndahimana and Nizeyimana; the conclusion of the part-heard trials; the renewal of our requests for the referral of cases to Rwanda in early 2010 for trial; the commencement of rule 71 bis evidence preservation proceedings in respect of three top-level fugitives; and the intensification of our tracking efforts to apprehend and transfer to the ICTR the remaining 11 fugitives. We have, during that period, indeed focused on those areas, with varying degrees of progress.

During this period, the evidence phase of the proceedings in five cases was completed. The prosecution phase was also concluded in two other cases. The defence stage of three cases is ongoing. The commencement of the two new trials, the evidence-preservation proceedings and the tracking of fugitives have been hampered by staffing constraints. However, we are finally set to commence the trial of Ndahimana in September 2010. The Nizeyimana trial is now likely to commence only in the last quarter of 2010, as my Office is grappling with the challenge of constituting an adequate trial team to prepare and prosecute that case. The rule 71 bis proceedings are now likely to commence closer to the end of 2010. We hope to renew the requests for the referral of cases to Rwanda by September 2010.

The slight delays in respect of those matters — with the exception of the requests for the referral of cases to Rwanda, which are tied to the ongoing capacity-building programme in and by that country — have been occasioned largely by the staffing challenges we face at the Tribunal. The current budgetary provisions have not provided adequately for the additional workload in 2010. At this critical juncture, we also continue to lose staff with experience and institutional memory, especially in the trial and fugitive-tracking sections, due to retirement or a desire by staff members to move on in view of the imminent completion of the ICTR's mandate. Replacing them has been quite slow, due largely to the difficulty in attracting staff with the requisite competence and experience who are willing to work for just the short period that remains of our mandate.

We have tried, as much as possible, to continue some of our activities within existing resources, — for instance by multitasking staff members. We continue to remain firmly committed to the effective implementation of the completion strategy, but I believe that sympathetic consideration of the supplementary budgetary proposals that have been submitted, together with measures that would iron out the challenges in recruitment, would greatly enhance our efforts in that respect.

While my Office prepares for the renewal of the requests for the referral of cases of indictees to Rwanda later this year, we have also continued the process of handing over files from my Office to Rwanda and other countries that relate to suspects who were investigated but not indicted by the ICTR. Indeed, on 8 June 2010, I handed over 25 such files to the Prosecutor General of Rwanda, thus bringing the number of such cases handed over to Rwanda by my Office to 55.

The tracking, arrest and transfer of Félicien Kabuga and the other fugitives will continue to be a top priority. Our tracking team will continue to deploy all its efforts to that end. We count on the continued call by the Security Council on all States to cooperate fully with the Tribunal in those efforts.

I regret to report, however, that there has been no further progress in the matter of cooperation by Kenya in relation to the case of Félicien Kabuga. Despite numerous requests, the Government of Kenya has so far not provided my Office with details of Kabuga's alleged departure from that country. More particularly, the outstanding ICTR requests to Kenya for cooperation relate to a follow-up on the investigation of Kabuga's assets and properties in that country, the provision to the joint ICTR/Kenya police task force of access to all Kenyan Government files on Kabuga and full particulars, as I have just indicated, of the circumstances of his reported departure from Kenya — reports that have come from the Government of Kenya. Despite the copious evidence of Kabuga's entry, residence, activities and occasional reported sightings in that country, Kenya has neither arrested him nor provided the information requested by the Prosecutor to assist in the tracking and arrest of that fugitive.

In view of Kenya's continued non-compliance with the requests of the ICTR, I have taken the step of requesting the President of the Tribunal, under article 28 of the ICTR statute and the Tribunal's rules, to notify the Security Council of the failure of Kenya to cooperate with the Tribunal in relation to that fugitive. That request sets out in greater detail the basis for the notification to the Council. We request the Council to consider the necessary measures to enable the ICTR to secure the cooperation of that country in this important case.

The number of requests for mutual legal assistance from national prosecuting authorities continues to grow. In the current reporting period, my Office has already attended to 40 requests from 10 Member States for assistance with evidence — a significant increase over the 2009 level. The nature of this work continues to centre on extensive research into the Prosecutor's evidentiary database for relevant

materials for use by national prosecuting authorities and investigators in respect of their work on the Rwandan genocide.

An important element of our international cooperation practice has also involved extensive work to declassify key exhibits and to vary witness-protection measures. During the current reporting period, my Office has secured consents for disclosure from 89 prosecution witnesses and filed five motions for the variation of witness-protection measures. Submissions are being prepared for additional measures as well. Those applications also contribute to the overall objective of reducing the number of protected witnesses and documents, thus scaling down the eventual workload of any residual mechanism that may be established.

In the months ahead, we propose to commence the trials of the two remaining cases of detainees, file new requests for the referral of the cases of eight of the remaining 11 fugitives to Rwanda for trial by the end of August or early September, intensify our efforts in tracking and arresting fugitives, and prepare for the commencement, early in 2011, of evidence-preservation hearings in respect of three top-level fugitives.

The cooperation of Member States and the support of the Security Council, the other organs and the Secretariat have been, and will continue to be, indispensable to the success of the completion strategy. I would like to convey our appreciation for all such support. We look forward to it at this crucial stage of the ICTR mandate.

The President (*spoke in Spanish*): I thank Mr. Jallow for the information he has provided.

I shall now give the floor to the members of the Council, beginning with Ambassador Mayr-Harting, Permanent Representative of Austria, in his capacity as Chairman of the Informal Working Group on International Tribunals.

Mr. Mayr-Harting (Austria): At the outset, let me thank the Presidents and Prosecutors of the International Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) for their briefings. In my statement today, I will first give an update on the activities of the Security Council Informal Working Group on International Tribunals, which Austria has the honour of chairing. Subsequently, I shall make some brief remarks in my national capacity.

Since my last briefing, on 3 December 2009 (see S/PV.6228), the Working Group has continued to meet on a regular basis, and it held 15 meetings. The latest meeting with the Presidents and Prosecutors of both Tribunals took place yesterday. The members of the Group continued the informal dialogue with affected countries and the host countries of the Tribunals. The members also heard a briefing by the Chief of the United Nations Archives and Records Management Section.

The Working Group has made good progress in its discussions on a draft Security Council resolution on the establishment of an international residual mechanism for criminal tribunals after the Tribunals' closure. Last December, the Working Group concluded the first reading of the new draft resolution and its annex, which had been prepared by the Chair with the help of the Office of Legal Affairs (OLA) based on the recommendations in the Secretary-General's report on the administrative and budgetary aspects of the options for possible locations for the archives and the seat of the residual mechanism, or mechanisms, for the Tribunals (S/2009/258).

At the end of last year, the Group agreed to request OLA to prepare a draft statute of the residual mechanism based on the statutes of the ICTY and the ICTR as well as two additional internal reports on the declassification of documents and review of witness protection orders by the Tribunals, and on possible locations for the residual mechanism. I should like to thank the Office of Legal Affairs for the preparation of the draft statute and the reports.

On 5 February, the Chair presented the first revised draft resolution on the residual mechanism, with an annex including the draft statute prepared by OLA. In February and March, the Working Group conducted the second reading of the draft resolution and the annex. After a period of bilateral consultations and internal reflection and preparation, the second revised draft resolution and draft statute were introduced by the Chair on 26 May. The Group has just started its third reading of the drafts, which is expected to last until mid-July. The discussions on a further revised draft resolution will resume in the fall with a view to reaching a final agreement.

In addition to the discussions on the residual mechanism, in December 2009 and March of this year the Working Group also considered various requests by the Presidents of the Tribunals for extension of mandates of judges. Following negotiations and agreement reached in the Group, the Security Council adopted resolutions 1900 (2009), 1901 (2009) and 1915 (2010). In resolutions 1900 (2009) and 1901 (2009), the Council underlined its intention to extend, by 30 June 2010, the terms of office of all trial judges, based on the Tribunals' projected trial schedules, and the terms of office of all appeals judges until 31 December 2012, or until the completion of the cases to which they are assigned if this is sooner. The Council further requested the Tribunals to submit an updated trial and appeals schedule, including information on the judges the extension of whose terms of office or whose redeployment to the Appeals Chamber will be sought.

By letters dated 25 and 31 May 2010, respectively, the Presidents of ICTR and ICTY submitted the requested schedules and made new requests for extension of the judges' mandates. The Working Group is currently preparing two draft resolutions, which are scheduled for adoption at the end of this month.

Turning now to what I wished to state in my national capacity, I should like to reiterate Austria's strong support for the rule of law and international criminal justice. We highly commend the work of the ICTY and the ICTR, which carry out crucial tasks to fight impunity and bring to justice those responsible for the most serious crimes. Austria fully supports the efforts of the Tribunals to complete their work at the earliest possible date. However, we note with concern that in the most recent reports we see yet further slippage of the trial and appeals schedules, which suggests that the Tribunals' work is not likely to finish until 2013 or even 2014.

We urge the Tribunals to take all possible measures to complete their work expeditiously, and we are prepared to work constructively to assist them in achieving that goal. In this context, we are also ready to help develop adequate strategies to retain experienced staff in order to prevent further delays. I have listened carefully to what the Presidents of both Tribunals had to say on this specific issue, and it is my personal conviction that what they have said requires further reflection both within the Council and, in particular, in other bodies of our Organization.

Moreover, by the end of this month, as I have already mentioned, the Council will have to consider the extension of the mandates of the judges in order to enable the Tribunals to properly plan their trials and appeals for the coming years.

The arrest of the remaining 13 fugitives continues to be a key priority for the completion of the work of the Tribunals. We call on all States concerned to fully cooperate with the Tribunals. With regard to the ICTY, while the arrests of Ratko Mladić and Goran Hadžić are still outstanding, we welcome the Prosecutor's most recent report (see S/2010/270) about the successful activities by the Serbian authorities in seizing 18 wartime notebooks of Ratko Mladić, which contain highly valuable information.

Austria welcomes the clear political commitment of the Croatian Government under Prime Minister Kosor to further intensify the work of its Task Force and to expand it to the additional avenues of investigation mentioned in the Prosecutor's report. We appreciate the growing cooperation and communication between the Croatian authorities and the Prosecutor and hope that this dialogue will be pursued on a very regular basis. We remain confident that the work of the Task Force will help to rapidly resolve the outstanding issues.

With regard to the ICTR, we regret that there has been no further progress in the matter of cooperation by Kenya in the case of Félicien Kabuga. We urge Kenya to render all necessary assistance to the ICTR.

In conclusion, I should like to thank the Presidents and Prosecutors once again for their briefings and to express our gratitude to all members of the Working Group for their active and constructive participation in its discussions.

Ms. Anderson (United States of America): Let me start by recognizing with deep appreciation the important successes of the International Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), as well as the increased regional cooperation of the countries where the crimes judged by these courts were committed. The United States is deeply committed to bringing to justice those responsible for genocide, war crimes and crimes against humanity.

We welcome this chance for the Security Council to focus on the work of the Tribunals, to take stock of what has been accomplished over the past six months and to work together to examine the Tribunals' completion strategies and specific ways in which the countries of the former Yugoslavia and Rwanda may assist the Tribunals.

The Tribunals have had many successes: more than 250 people have been indicted, proceedings against approximately 170 people have been concluded and about 70 persons are on trial or have appeals pending. Just eight days ago, the ICTY delivered a judgement in the trail of seven high-ranking Bosnian-Serb military and police officials accused of a range of crimes, including genocide. The judgement reaffirmed that the murder of Bosnian Muslim men at Srebrenica was genocide and convicted all seven of the accused for related crimes — a particularly important verdict since it comes as the international community prepares to gather at Srebrenica in less than a month to commemorate the fifteenth anniversary of the 1995 genocide.

We applaud the many accomplishments of the Tribunals, but we also note that the projected timelines for completion have significantly slipped. We urge the Tribunals to take every possible step to move their remaining cases forward in a disciplined, fair and efficient manner. We also urge them to focus on completing their core mandate: prosecuting those responsible for violating international humanitarian law.

Nevertheless, we recognize that some factors are well beyond the Tribunals' control and we encourage our fellow Council members to take a practical approach to dealing with such matters as extending the judges' terms of office, so that we do not find ourselves dealing with further delays caused by premature departures from the bench. Retaining experienced staff is a growing and real concern, and it will become even more important as completion dates near. We encourage the Tribunals and relevant United Nations offices to develop flexible and cost-effective solutions to these challenges.

Despite the Tribunals' efforts to finish their work, indicted individuals remain at large. They must be apprehended and brought to justice without further delay. We call on all States to fulfil their legal obligations to cooperate with the Tribunals and to take the steps necessary to ensure that the remaining fugitives are apprehended.

In particular, let me underscore what has already been said about the need to apprehend ICTR fugitive Félicien Kabuga. The Government of Kenya has still not responded to the Prosecutor's requests, last made on 27 March 2009, for access to investigative files and other Government records related to Kabuga. Nor has it provided details to support the claim that he has left Kenya. The Kenyan authorities have also not responded to the Prosecutor's requests for meetings with Kenyan officials to discuss these issues. We urge the Government of Kenya to immediately respond to the Tribunal's requests, to make good-faith efforts to locate and seize Kabuga's assets, and to cooperate with the Tribunal to find him and arrest him. Similarly, we urge regional cooperation to apprehend two other major figures in the Rwandan genocide: former Commander of the Rwandan Presidential Guard Protais Mpiranya and former Minister of Defence Augustin Bizimana.

The United States applauds the cooperation among the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC), the Government of Uganda and the Democratic Republic of the Congo, which resulted in two fugitive arrests last year. This type of cooperation must continue, to bring the remaining fugitives in the region to justice.

The United States commends States' efforts to cooperate with the ICTY. For States in the former Yugoslavia, full cooperation with the ICTY remains not only a fundamental obligation but also a key to progress towards Euro-Atlantic integration. As our colleagues here know, the United States also supports those countries' European Union aspirations, realization of which would promote regional stability, economic prosperity and judicial reform.

The most critical unmet duty is the arrest of the two remaining fugitives, Ratko Mladić and Goran Hadžić, and their transfer to the Tribunal to face justice. In addition, we urge all States to support requests from the Prosecutor in connection with ongoing trials, including cooperation on protecting witnesses and providing access to archives, documents and witnesses. We welcome the Government of Serbia's cooperation and commend the seizure of materials, including 18 notebooks, containing Mladić's handwritten wartime notes, and associated audio tapes.

We urge Serbia to do everything in its power to locate and arrest Mladić and Hadžić and to transfer them to the Tribunal. Their arrests are vital for the successful completion of the ICTY's mandate.

We commend Croatia's cooperation with the ICTY and its renewed high-level commitment to continue a credible ongoing investigation to locate artillery documentation from Operation Storm and, if that documentation cannot be located, to expand the investigation into its fate. We encourage the Croatian authorities to continue to explore additional investigative techniques that might help recover responsive documents, or account for them.

Bosnia and Herzegovina has made good progress in its cooperation with the Tribunal. We would encourage the Bosnian Government to take a more proactive approach in implementing the national war crimes strategy adopted in December 2008. In addition, all possible measures must be taken by countries in the region to apprehend Radovan Stanković, who escaped from prison in Bosnia while serving his 20-year sentence.

As we noted last December, the ICTY has done a commendable job supporting the development of domestic courts, particularly in Bosnia. International judges and prosecutors in Bosnia have performed critically important work to bring justice on behalf of the victims, regardless of ethnicity.

We cannot speak of the completion of the Tribunals' work without addressing the critical need to establish a residual tribunal to continue the essential functions of the Tribunals after the completion of their pending trials. We must work together to establish a strong, effective and efficient residual tribunal that will encourage, among other things, ensuring that the remaining ICTY and ICTR fugitives do not escape justice.

Let me thank the Tribunal Presidents and Prosecutors for their presentations today and for their written assessments. The United States extends its gratitude to the representatives and staffs of both Tribunals for their effective and important work to ensure that the perpetrators of some of the most horrific crimes known to humankind are brought to justice. One reason we continue to push for a successful completion of the Tribunals' work is very simple and clear: we owe it to the victims; we owe it to all those who have worked so hard to provide them, their families and their countries with a measure of justice. Our collective conscience will not rest until this task is done.

Mr. Rugunda (Uganda): We welcome The Honourable Justice Dennis Byron, President of the International Criminal Tribunal for Rwanda (ICTR), and The Honourable Justice Patrick Robinson, President of the International Tribunal for the Former Yugoslavia (ICTY). We also welcome Mr. Serge Brammertz, Prosecutor of the ICTY, and Mr. Hassan Bubacar Jallow, Prosecutor of the ICTR. We thank them for their briefings, and we thank them and the staffs of the Tribunals for their good work.

Uganda attaches great importance to the delivery of justice and the fight against impunity. Our interest in the delivery of international criminal justice continues to be manifested in various ways. Uganda has collaborated closely with the two Tribunals, and also with the International Criminal Court. The arrest of Nizeyimana in Kampala last year testifies to that. The recent hosting in Kampala of the Review Conference of the Rome Statute of the International Criminal Court is further evidence of our keen interest in ending impunity.

Resolutions 1503 (2003) and 1534 (2004) call on the Tribunals to take all possible measures to complete all trials, and they stress the importance of implementing the completion strategies. We commend the Tribunals for their work towards completion in a proper way that would not undermine efforts against impunity. We welcome the strategy for the completion of remaining cases. In that regard, we welcome the holding of 10 simultaneous trials at the ICTY, which has meant that there are no cases at the pre-trial stage.

However, we now recognize that the completion strategies themselves raise challenges of retaining staff to do the job. We have heard that, as the completion dates have drawn near, the depletion of some of the best staff has continued. We are concerned by the high turnover of highly qualified and essential staff as the Tribunals near the end of their mandates. There is a need to implement measures to assist in the retention of staff at this critical stage.

Uganda supports a clear and unequivocal statement by this Council in support of the retention of staff by the Tribunals. Uganda also supports the request to grant an extension of the judges' terms after

December 2014 in order to enable them to complete the pending trials and appeals.

We welcome the initiatives undertaken to ensure that the professional staff of the Tribunals is considered alongside internal candidates at the 30-day mark for vacancies within the Secretariat. The Secretariat should endeavour to ensure that the right of long-serving staff to conversion is protected.

It is necessary to address the issue of the selection of candidates for the positions of President, Vice-President and Presiding Judge of a Trial Chamber once the terms of the current incumbents are completed and the judges have been redeployed to their previous Chamber. My delegation supports the proposal by the Tribunals for the appointment of currently serving ad litem judges as permanent judges or amending the statute so as to make ad litem judges eligible to serve as President or Presiding Judge of a Trial Chamber. Uganda also supports the request for the creation of a new roster of ad litem judges in order to alleviate the additional workload that cannot be covered by the serving judges.

We also note with concern the inequality in emoluments between the permanent and ad litem judges. The principle of equal payment for an equal amount of work must be upheld. We therefore welcome General Assembly resolution 64/261 adopted on 29 March, which decided that the matter should be addressed with priority at the sixty-fifth session.

We welcome the outreach programme being undertaken by the tribunals to raise awareness and build capacity. Activities such as the awareness programme of the ICTR targeting the young people of the region on the role of the Tribunal in promoting international justice are important. We also welcome the efforts of the ICTY in assisting national judiciaries of the region in securing capacity to provide education on, investigate and prosecute war crimes and cases.

Finally, I wish to reiterate Uganda's support for the ICTY and ICTR because we attach great importance to their work in the delivery of justice and the fight against impunity. We call on Member States and the international community to support them in ensuring a smooth and proper completion of their mandates.

Mr. Moungara Moussotsi (Gabon) (*spoke in French*): At the outset, I would like to thank the Presidents and Prosecutors of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) for their respective briefings on assessing the implementation of measures taken by the Secretary-General concerning the implementation of the completion strategies for the two Tribunals, in accordance with resolutions 1503 (2003) and 1534 (2004). I would also like to convey my warm congratulations to Ambassador Mayr-Harting for the skill with which he leads the Informal Working Group on International Tribunals. I assure him of our support.

My statement will focus on three points: the progress made in implementing these measures, the gaps therein, and the views of my delegation with respect to questions we deem to be essential, especially the cooperation of States with the Tribunals and the capacity-building of national judicial systems.

Concerning progress, my delegation welcomes the achievements in implementing the completion strategies of the two Tribunals. To that end, we welcome the firm resolve of the judges, Prosecutors and all the staff of the Tribunals to accelerate the completion of their judicial activities on schedule and in accordance with applicable international norms regarding procedural guarantees and the protection of the rights of the accused. The efforts of the Informal Working Group are indeed noteworthy, particularly with regard to the drawing up of drafts for the statute for the mechanism responsible for carrying out essential functions once the Tribunals have concluded the pending trials. The creation of such a mechanism will be essential to preserving archives, which represent a major institutional and legal legacy for the countries concerned and the international community.

In this regard, we support the measures taken by the Tribunals themselves, the United Nations, national jurisdictions and non-governmental organizations, as well as the contribution of universities, to make fruitful use of this legacy, in particular in the strengthening of the rule of law, peace and national reconciliation. It would therefore be highly desirable for the Security Council to adopt as soon as possible a draft statute for the international mechanism that would ensure the competent and effective management of the legacies of these two Tribunals.

With respect to the challenges, my delegation would highlight that, in spite of the progress made in

moving forward the cases under way, in accordance with the established schedule, the Tribunals continue to face real difficulties in carrying out their activities. Given the many unknowns, it is unlikely that the schedule for trials and appeals cases will be complied with. In these circumstances, it is essential that the Security Council take measures to extend the mandates of first-instance and appeals judges, and adopt appropriate provisions to retain staff who are essential to the good functioning of the Tribunals, pursuant to General Assembly resolution 63/256, which provides for the renewal of contracts of the staff of the Tribunal in line with the trial schedule and forecasts for the renewal of staff contracts.

The essential role of the ad hoc Tribunals in fighting impunity for the most serious crimes committed in the former Yugoslavia and Rwanda no longer needs to be proven. It is up to the Council to preserve this achievement. If the 13 fugitives, including Ratko Mladić, Goran Hadžić and Félicien Kabuga, are not tried as soon as possible, the impact of the Tribunals could be weakened and the credibility of the Council gravely affected. Indeed, the arrest of these fugitives is important not only to compensating the victims and ensuring justice, but also to promoting reconciliation and the re-establishment of peace and security in the countries and regions concerned.

Without their own police forces, the international Tribunals must rely on the cooperation of States. While welcoming the efforts of the Democratic Republic of the Congo to cooperate in arresting the 11 ICTR fugitives who are still at large, we encourage the Congolese Government and the countries of the Great Lakes region to cooperate fully in arresting the fugitives. We express the same wish with regard to the International Criminal Tribunal for the Former Yugoslavia.

With respect to building the capacity of national judicial systems, my delegation would like to underscore the importance of that issue in the context of the completion strategy, in particular the training of qualified staff in the countries concerned, especially Rwanda. That would enable national judicial institutions to take on cases that the Tribunals will not be able to consider before the end of their mandate. The transfer of such cases would make it possible to strengthen the rule of law in the countries concerned.

Finally, my delegation wishes to highlight the urgent need to implement effective completion strategies that take full account of the need for fair trials and protection for victims, a principle that must be at the heart of our efforts. Likewise, we encourage the efforts of the ad hoc Tribunals to raise awareness among the populations on the scope of their work since their establishment, in particular by disseminating knowledge of international criminal law and international humanitarian law.

Mr. Takasu (Japan): I should like to thank Judge Robinson, Judge Byron, Prosecutor Brammertz and Prosecutor Jallow for their useful briefings on the completion strategies of their respective Tribunals. I extend our appreciation to all the judges, prosecutors and staff of the Tribunals for their efforts to ensure the fair and expeditious operation of these important judicial bodies. The International Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) have made significant contributions to the development of international criminal law.

The original intention was to complete all judicial proceedings by the end of 2010, in accordance with Security Council resolution 1503 (2003). However, as the respective representatives of the two Tribunals clarified, that expectation has proved to be unrealistic. On the basis of the latest estimate, the ICTY is forecast to complete its trial work by the end of 2012 and appeals by mid-2014. The ICTR is forecast to complete its trial work before the end of 2011 and appeals by the end of 2013.

Japan attaches great importance to the rule of law and appreciates the efforts made by the two Tribunals to expedite proceedings, while ensuring fair trials. We acknowledge the circumstances that have led to this delay. We strongly urge the Tribunals to make every effort to work expeditiously and to bring about completion ahead of the projected dates.

In response to resolutions 1900 (2009) and 1901 (2009), the Presidents of the Tribunals submitted to the Council updated schedules and requests for the extension of the terms of judges, measures which are necessary for them to accomplish their work. We should take into account the need for staff retention for the work of the Tribunals. Japan is ready to work constructively with other Council members for an appropriate response to these requests.

The Tribunals are unable to fulfill their responsibility until the remaining fugitives are arrested and brought to trial. It is regrettable that two suspects indicted by the ICTY, Ratko Mladić and Goran Hadžić, and 11 under indictment by the ICTR, including Felicien Kabuga, are still to be apprehended. We strongly urge the States concerned to cooperate fully and take action to arrest all fugitives as early as possible.

The referral of cases to national jurisdictions is an essential element of the completion strategies. We appreciate the effort made by the Rwandan authorities and the Prosecutor of the ICTR to facilitate the referral of cases, including addressing issues related to the Witness Protection Service within the Rwandan judiciary. We look forward to the application for the referral of future cases to Rwanda starting this year.

With regard to the ICTY, it is essential to secure the full and positive cooperation of the States of the former Yugoslavia on access to archives, documents and witnesses. We take positive note of the continued efforts of the Croatian authorities to further improve the quality of the investigation into missing documents, in compliance with the request of the Prosecutor. We also take positive note of the response of Bosnia and Herzegovina and the improved cooperation of Serbia with the requests of the Prosecutor. We trust that those States will continue their efforts to cooperate with the Office of the Prosecutor.

The ICTY and ICTR face challenges that are unique to ad hoc tribunals as organs established by Security Council resolutions under Chapter VII, in an exceptional manner. For instance, the need for a residual mechanism after completion was not fully explored at the time of their establishment. The residual mechanism should meet the principal objectives that impunity must not be condoned and that individuals involved must be brought to justice in accordance with international standards of due process. At the same time, every effort must be made to ensure as cost-effective a mechanism as possible. With those criteria in mind, Japan is open to examining the most appropriate residual structure. We appreciate both Tribunals having described in their reports (see S/2010/270 and S/2010/259) the preparatory measures taken to facilitate a smooth transition, in response to the request of the Informal Working Group on International Tribunals.

We are also grateful to the Office of Legal Affairs for the report on the declassification of documents and the review of witness protection ordered by the Tribunals. Japan will participate actively in the discussion on a draft resolution and draft statute of a residual mechanism in the Informal Working Group on International Tribunals, under the very able chairmanship of Austria.

Mr. Parham (United Kingdom): I too would like to thank very much Presidents Robinson and Byron and Prosecutors Brammertz and Jallow for their very helpful briefings. I thank them and all their colleagues for the work of the Tribunals and for their reports on the completion strategies of the Tribunals (see S/2010/270 and S/2010/259).

The United Kingdom welcomes the efforts made by both Tribunals to implement those completion strategies. However, we are concerned by the further delays reported in their latest reports. In some cases, delays of more than 12 months are now being forecast in comparison with the projections of some six months ago. We acknowledge that sometimes unforeseen events beyond the control of the Tribunals may throw a trial off schedule. But going forward, it is vital that both Tribunals do everything possible to minimize further delays, in particular by focusing their resources on their core functions, that is the completion of trials and appeals. In that context, we welcome the reconvening of the International Tribunal for the Former Yugoslavia (ICTY) Working Group on Speeding Up Trials and we look forward to seeing its results.

We note the concerns of both Presidents about the impact of staffing issues on the completion strategies and the difficulties of retaining experienced staff as the Tribunals near the end of their work. We recognize that losing experienced staff can have an adverse impact on the completion of trials, and we agree that it is important that the Tribunals remain adequately staffed to enable them to complete their work expeditiously. Resource issues are not, of course, a matter for the Security Council. Nevertheless, we take this opportunity to encourage the Secretariat to look favourably on the Tribunals' requests for flexibility in the issuing of staff contracts, in line with the current trial schedules, as provided for General Assembly resolution 63/256, in order to help ease their staff retention problems. The Security Council should also assist the Tribunals by granting the appropriate

extensions to judicial mandates, in line with the commitment made in resolutions 1900 (2009) and 1901 (2009).

Completion of the Tribunals' work depends to a great extent on their receiving full cooperation from States, in particular in relation to the provision of documents and to tracing fugitives. The Tribunals' work will not be complete until all remaining fugitives are brought to justice. The United Kingdom welcomes Prosecutor Brammertz's assessment of Serbia's cooperation with the ICTY. This report shows Serbia's continued commitment to cooperating with the ICTY. The discovery of the Mladic diaries earlier this year was an important development with implications for several ongoing trials. However, we would urge the Serbian authorities to keep up the momentum in the search for the two remaining fugitives, Ratko Mladić and Goran Hadžić.

The United Kingdom also welcomes Prosecutor Brammertz's assessment that Croatia's cooperation is generally responsive to the needs of his Office and that there have been improvements in the level of cooperation since his last report. But we continue to urge Croatia to make every effort to satisfy the Prosecutor in relation to the missing documents relating to Operation Storm, in particular by following up key investigative avenues to establish what has happened to those missing documents.

The United Kingdom regrets that there has been no progress in the search for the International Criminal Tribunal for Rwanda (ICTR) fugitive Félicien Kabuga. We note President Byron's decision to refer the issue of Kenya's cooperation to the Security Council, which should now carefully consider its response. The United Kingdom repeats its call on Kenya to supply all information it holds on the current whereabouts of Kabuga, and expresses its own willingness to provide all the support it can to bring Kabuga and other fugitives from the ICTR to justice.

As the Tribunals near completion, the Security Council must take necessary measures to ensure that a mechanism is in place to deal with the residual issues of the Tribunals after they close their doors. We thank the Tribunals for their preparations for transition to the residual phase, and express appreciation also for the ICTY's report on the establishment of information centres in the former Yugoslavia.

We are grateful to Ambassador Mayr-Harting for his report on progress in the Security Council Working Group on Tribunals in drafting a resolution to establish a residual mechanism for the Tribunals. We thank Austria for its leadership on this issue. Discussions on this topic have made considerable progress in recent months. The United Kingdom hopes that this Council will be ready to adopt a resolution by the end of this year.

Mr. Apakan (Turkey): I wish to begin by thanking the Presidents and Prosecutors of the International Criminal Tribunals for the former Yugoslavia and Rwanda for the comprehensive briefings they have just provided. The work carried out by both Tribunals since their very inception is of considerable importance for the fight against impunity, advancing the rule of law and paving the way for reconciliation among the States concerned. We also acknowledge the significant contribution the Tribunals have made to the international criminal justice.

In spite of their dedicated work and continued efforts to pursue the completion strategy, the Tribunals will not be able to finish their work before the target dates envisaged in resolutions 1503 (2003) and 1534 (2004). Thus, we are now at the point where we must take all necessary steps to enable the Tribunals to complete their mandates without further delay. Meanwhile, we also urge the Tribunals to continue their efforts to expedite the proceedings, without compromising due process.

We noted the comments of both Presidents concerning the terms and conditions of the staff and judges of the Tribunals. As to the issue of extending the mandates of the judges, the Council has already expressed in earlier resolutions its intention to extend, by 30 June 2010, the terms of office of all trial and appeal judges. Further extensions are now being considered by the Informal Working Group on International Tribunals.

The issue of the residual mechanism is also under the consideration of the Informal Working Group. Tribunals have undertaken several measures in preparation for the transition to the mechanism, and we ask them to continue such efforts. On the other hand, the Working Group, under the chairmanship of Ambassador Mayr-Harting of Austria and with the significant support of the Office of Legal Affairs, has made considerable progress in bringing the new

mechanism to life, which will be vital to the legacy of the Tribunals.

Like others, we are concerned by the fact that the number of fugitives remains unchanged since the last biannual reports of the Tribunals. All States, especially those in the regions concerned, should intensify the efforts as to ensure that the remaining thirteen fugitives, including Ratko Mladić, Goran Hadžić and Félicien Kabuga, are apprehended and brought to justice without further delay.

Effective cooperation by States in other areas, such as access to archives, documents and witnesses, is also an essential part of the completion strategy. We take positive note of Croatia's continued and serious efforts regarding cooperation on the missing documents. In this regard, we are pleased to note that the Prosecutor's report recognizes a general improvement in the quality of Croatia's investigations. We also welcome Serbia's continued cooperation, including the submission of the notebooks of Ratko Mladić, as well as adequate responses of Bosnia and Herzegovina to the requests of the Prosecutor. We commend these countries for their improved level of cooperation and hope that it will lead to the achievement of full justice and reconciliation. Similarly, we appreciate Rwanda's continued cooperation with the International Criminal Tribunal for Rwanda in various areas.

In conclusion, let me once again offer our sincere thanks to the Presidents, Prosecutors and all judges of both Tribunals for their professionalism and dedicated work.

Mr. Moretti (Brazil): I wish to thank the Honourable Judges Robinson and Byron and Prosecutors Brammertz and Jallow for their comprehensive reports before the Council (see S/2010/270 and S/2010/259) and their remarks today. More importantly, we commend them on their efforts to conclude the work of both Tribunals in a timely manner. I also take this opportunity to thank Ambassador Thomas Mayr-Harting of Austria and his team for their remarkable work in the Informal Working Group on International Tribunals.

Today, my delegation would like to address five specific issues related to the Tribunals: the progress already achieved, staff retention, international cooperation, outreach activities, and other residual issues. Despite all the challenges and obstacles that the Tribunals have faced in their ordinary activities, we should not lose sight of the fact that both the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda (ICTR) have made significant progress in discharging their responsibilities and fulfilling the completion strategy. Their efforts are commendable and should be further supported in order to allow for a prompt conclusion of outstanding judicial activities.

With regard to staff retention, my delegation agrees with the assessment of the Presidents and Prosecutors that measures should be put in place as soon as possible to ensure that the most highly qualified staff continue to work for the Tribunals. It is clear that the early retirement or resignation of experienced employees may jeopardize the work of the Tribunals and result in further delays in the conclusion of their functions. That is why the Organization should urgently consider giving further incentives and assurances of future professional opportunities to staff who wish to stay until the conclusion of the activities of the Tribunals. Additionally, a swifter but thorough recruitment process should ensure that proceedings are not negatively affected in cases where staff decide to leave.

A third important element is the cooperation between Member States and the Tribunals. It remains a key element not only for the success of the completion strategy, but also for the proper delivery of justice. We acknowledge the steps already taken by concerned States to respond to requests issued by the Tribunals. We encourage them to continue doing their utmost to cooperate effectively and promptly with the Tribunals, including with regard to the arrests of fugitives and the possible referral of cases to national jurisdictions.

Fourthly, as the implementation of the completion strategy moves forward, outreach and capacity-building activities will become even more important. The affected communities should be informed of the evolving process and how it will impact the administration of justice. They should also be made aware of the new mechanism that will replace the Tribunals when final decisions are made in this regard. Furthermore, in view of the efforts to refer cases to national jurisdictions, in particular in respect of the ICTR, Member States interested in receiving those cases should be offered international cooperation to enhance their national capacities if they so wish. The Tribunals could play a central role in this regard.

Finally, concerning other residual issues, my delegation stresses the need for the continued commitment of the Tribunals to the recommendations made by the Secretary-General in his reports on administrative and budgetary aspects and the residual mechanism. This is of particular importance in the consideration of possible ways to review witness protection orders, the preparation of digital records, and the development and adoption of strategies for appropriate declassification of records and archives.

One of the main challenges in relying on an ad hoc Tribunal is knowing exactly what to do when it has performed most of its core functions but still needs to undertake certain activities, such as trials for remaining fugitives, witness protection and the preservation of documentation. In addressing a completion strategy, one should not pursue the goal of a speedy conclusion of activities to the detriment of the principle of due process; otherwise, the Tribunal's legacy may be at risk, with a consequent impact on the delivery of justice. At the same time, no effort should be spared to make steady progress and comply with deadlines.

The early establishment of a residual mechanism will add an element of certainty to the delivery of justice. My delegation hopes that the efforts to create such mechanism for the international Tribunals may soon bear fruit. We must all work intensively towards the day when all remaining functions of the Tribunals can be transferred to the new structure. The Security Council can count on the readiness of my delegation to continue cooperating with other Council members in this regard.

Mr. Lolo (Nigeria): I would like to thank the Presidents and Prosecutors of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) for their candid and informative briefings on the work of the two Tribunals. We commend the ICTY and the ICTR for the progress made in implementing their completion strategies during the past six months. We are pleased with the firm commitment as well as measures deployed by the Tribunals to expedite the conduct of their proceedings. We note with satisfaction that the two Tribunals are complying with due process standards and that the forecasts for the reporting period have been substantially met.

Despite these positive developments, we note with concern the challenges affecting the work of the Tribunals, not least staff constraints, the parallel assignment of judges to several ongoing trials and contractual matters. Given the lack of an immediate solution to these problems, it is our view that the Council should not be overly optimistic in its completion strategy estimates. We urge the Tribunals to continue to better manage delays in order to minimize their impact. The Council, on its part, needs to be flexible, proactive and pragmatic in its response to those factors, particularly the retention of staff, the extension of judges' terms and budgetary issues that are outside the Tribunals' control yet inhibit their effectiveness.

We share the assessment that cooperation between Member States and the Tribunals remains an indispensable element for the success of the completion strategy. In this regard, we are concerned that some fugitives have continued to remain at large. We urge all States to cooperate with the Tribunals to ensure that these fugitives are apprehended and brought to justice. In the same vein, we stress the need for cooperation in referring cases to national jurisdictions, transferring convicts for the enforcement of sentences, and relocating acquitted persons and persons who have served their sentences.

Cooperation would also be enhanced through the training national prosecutors and judicial officers, information-sharing with the Tribunals, and joint projects between States. In this context, enhancing the capacity of States to prosecute breaches of international humanitarian law is important. These activities, we believe, will sustain the good work done by the Tribunals, serve the course of justice and advance the fight against impunity.

We welcome the efforts of the Tribunals to increase mutual legal cooperation and assistance. We share the assessment in the ICTR report (S/2010/259) that recognition of the importance of such cooperation and assistance in the residual mechanisms will greatly contribute towards the further closure of the immunity gap. Member States are encouraged to take advantage of the Office of the Prosecutor's information resources for national prosecution of suspects not charged by the Tribunal.

As we consider the exit strategy for the Tribunals, it is important to continue to reflect on their legacies. There is need to sustain activities that showcase and disseminate information on the activities of the

Tribunals at this vital stage of the completion strategy. More outreach activities are needed to make the work of the Tribunals understood by local stakeholders. It is also necessary to establish sustainable reference centres for information and archives on the activities of the Tribunals.

In closing, I would like to commend Ambassador Mayr-Harting for his leadership of the Informal Working Group on International Tribunals.

Mr. Assaf (Lebanon) (*spoke in Arabic*): Allow me at the outset to thank the Presidents and Prosecutors of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) for their briefings. Lebanon highly appreciates the efforts of the two international Tribunals to achieve the completion strategy as soon as possible.

Lebanon notes the progress made in the various trial Chambers, but at the same time is aware of the difficulties that, as predicted, have prevented the completion of certain tasks. Lebanon therefore supports any necessary measure taken by the Security Council to enable the two Tribunals to complete their proceedings as soon as possible, without compromising due process. Moreover, my country encourages the referral of more cases to national courts that meet fair trial standards, which would reduce the workload of the ICTR and the ICTY and expedite the implementation of the completion strategy.

Lebanon commends the cooperation demonstrated by most States with both Tribunals, especially the States of the former Yugoslavia and the States neighbouring Rwanda, and calls on them all to cooperate fully with the two Tribunals. The role of these States is fundamental to locating, arresting and handing over fugitives, as are the potential evidence and information available to those States.

Lebanon also appreciates the efforts of the Informal Working Group on International Tribunals, chaired by Austria, and hopes that a residual mechanism will be established to ensure the completion of the Tribunals' efforts. Such a mechanism must guarantee witness protection, fugitive apprehension and the preservation of the Tribunals' archives, which will constitute a valuable framework of reference for international criminal law.

The establishment of these two Tribunals after the end of the cold war was a qualitative leap that confronted the phenomenon of impunity. The Tribunals' successful completion of their tasks will lay the groundwork for holding criminals accountable and for strengthening the rule of law at the international and national levels. The Tribunals are also an important gateway towards closing a painful chapter in the past history of Rwanda and the former Yugoslavia, as well as towards strengthening national reconciliation, guaranteeing stability, deterring future crimes and providing justice for victims and easing the suffering of their families.

Lebanon will continue to support every effort to ensure the success of the international justice system.

Ms. Le Fraper du Hellen (France) (*spoke in French*): I too would like to thank the Presidents and the Prosecutors of the International Criminal Tribunal for Rwanda (ICTR) and the International Tribunal for the Former Yugoslavia (ICTY) for their biannual reports.

The briefings we have just heard confirm that there is slippage in the calendar, and the Security Council will have to respond accordingly. The first thing to do, of course, is to give the Tribunals the resources to complete the current trials and appeals, with full respect of the rules of fairness. We hope that in its future decisions the Council will clearly state its will to ensure that the Tribunals have the resources they need. That said, as the representative of Japan remarked, the slippage is a matter of concern, and we ask the Tribunals to make greater efforts to increase the effectiveness and pace of the work of the Trial and Appeals Chambers.

The action of the Prosecutors is essential to the search for fugitives whose arrest and transfer to the Tribunals remains a priority. The existence of fugitive indictees is one of the principal uncertainties weighing on the completion strategies.

With respect to the ICTR, as Judge Byron and Prosecutor Jallow reminded us, 11 fugitives remain at large. There is an excellent record of regional cooperation in making arrests in the past, and we call on all States to fully cooperate with Prosecutor Jallow. On behalf of France, I would like to welcome once again the activities of the Prosecutor, who has been able to gain the confidence of all actors in the region. The President of the Tribunal, at the Prosecutor's

request, has reported to us of the non-cooperation of Kenya, which is a significant step. We must reiterate our request to Kenya to fulfil its obligations in order to arrest and bring to justice Félicien Kabuga. The entire international community, including France, remains mobilized alongside the Rwandans, the countries of the region and the Tribunal in ensuring that low-ranking indictees responsible for heinous acts will also be tried.

Turning to the ICTY, Mr. Karadžić's arrest by the Serbian authorities was a significant step forward. His trial must now proceed. We also hope for the arrest of Mr. Mladić and Mr. Hadžić. As the European Union's Foreign Affairs Council recalled following Prosecutor Brammertz's briefing to it, Serbia should follow the Prosecutor's recommendations. As for the pending Tribunal questions involving Croatia, we fully trust that Croatia will resolve them.

If the issue of fugitives is not resolved, it will have to be dealt with in the framework of managing the Tribunal's legacy. The arrest warrants will not disappear. The residual mechanism thus will have to take over the investigation and arrest process. The Council's Informal Working Group on International Tribunals has continued to work on this subject under the chairmanship of Austria, for which we are very grateful.

The Working Group is an important one and its work has affected not only Rwanda, the Great Lakes region and all of Europe, but more broadly for the future of international criminal justice. That is why France calls on the Secretariat, in accordance with the presidential statement we adopted in 2008 (S/PRST/2008/47) to focus closely on the services, including interpretation, needed by the Group and the Austrian chairmanship. France will continue to work in the Group, with a view to the Council taking a timely decision that will preserve the integrity of the legacy of the two Tribunals and that will meet the criteria of continuity, simplicity and fiscal discipline.

France firmly believes that we should take advantage of the existing structures in The Hague and Arusha and of the services that other judicial institutions can provide to the residual mechanism, along with possible synergies between the mechanism and these judicial institutions.

Mr. Barbalić (Bosnia and Herzegovina): I would like to welcome today the Presidents and Prosecutors of the International Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) and to thank them for their detailed reports and extensive briefings. We note once again their hard work and dedication to the cause of justice and combating impunity. Since their establishment, the Tribunals have represented a significant element and one of the foundation stones on which the international criminal justice system as we know it today is built. It is of ever-increasing importance for us to preserve their legacy, extend the necessary support and encourage the efficient completion of their work as well as the timely transition to an adequate and credible residual mechanism.

Allow me thus to reiterate the support of my country for the work of the Tribunals and to confirm the steadfast dedication of Bosnia and Herzegovina to strengthening the international criminal justice system. We strongly believe that prosecuting those who committed horrendous crimes in Rwanda and the former Yugoslavia not only will lead our countries to reconciliation and a better future, but, more important, will bring justice, consolation and dignity to the victims and their families.

We would also like to extend our appreciation to Ambassador Mayr-Harting for Austria's firm leadership in chairing the Informal Working Group on International Tribunals. Building on the foundation set forth in the report of the Secretary-General (S/2009/258), the Group is working intensively and has achieved significant progress in its deliberations. Bosnia and Herzegovina attaches great importance to the Group's work and further commends the efforts of the Austrian delegation, with the valuable assistance of the Office of Legal Affairs, in steering the its deliberations towards the establishment of a residual mechanism that will reflect the Tribunals' legacy in the most effective and appropriate manner.

As we consider the details of the reports regarding the delays in implementing the completion strategy, it is necessary to recognize that some factors beyond the Tribunals' control have, to a certain extent, contributed to these delays. We should also take into account the heavy schedules described in the reports and the difficulties that the judges face in dealing with the number of cases running simultaneously, which suggests that we need to have a more realistic approach. Even though we regret the delays, guaranteeing a fair trial in each individual case should undoubtedly remain our priority. While we encourage

the Tribunals to make every effort to complete their work, the Council remains under an obligation to provide its further support for their undisturbed work. Extension of the judges' mandates is certainly one of the issues the Council needs to address.

It is also regrettable that the number of those accused by the ICTY and the ICTR who are still at large remains unchanged. The arrest and prosecution of those individuals, either by the Tribunals or the residual mechanism, should remain our priority. We can consider their mandates fully completed only once this is accomplished. The reality of the present moment is that much work still remains to be done in the name of justice.

Bearing this in mind, we once again stress our concern that, for the ICTY, no progress has been made in locating and arresting the two remaining fugitives, Ratko Mladić and Goran Hadžić. In underlining the strong commitment of Bosnia and Herzegovina to its obligations and firm respect and support for international criminal justice, I urge that these fugitives finally be made to answer for the crimes they have committed. In this regard, the cooperation of the countries in the region is crucial, but the further support and involvement of the international community are also necessary.

We also note with appreciation the details of the report of the ICTY Prosecutor, which further reflects the record of continued and positive cooperation between Bosnia and Herzegovina and the Tribunal. Cooperation has been particularly constructive in regard to the rule 11 bis cases transferred by the Office of the Prosecutor to the War Crimes Chamber of the State Court of Bosnia and Herzegovina. Also, the authorities of Bosnia and Herzegovina have responded effectively to all requests of the Prosecutor's Office, providing documents and enabling unobstructed access to Government archives.

In addition, further steps have been taken to enhance cooperation between the countries in the region. With the prospect of national prosecutions of war crimes cases in the future and as indicated in the report of Prosecutor Brammertz, Bosnia and Herzegovina has entered into several agreements with neighbouring countries aimed at improving cooperation in judicial matters. We must agree with the Prosecutor's assessment that these agreements serve as a good foundation and will eventually have a positive impact on investigations, clear communication and the exchange of information.

As Bosnia and Herzegovina has stressed numerous times, the work of the Tribunals has a great impact and most direct relevance for the countries under the Tribunals' jurisdiction. As one of those countries, we cannot overemphasize the importance of justice and accountability. The horrific crimes that were committed need to be punished, individuals responsible should be named and justice finally served. No matter how painful the process is, it will finally provide some comfort and dignity for victims and their families and eventually lead to reconciliation.

Ms. Guo Xiaomei (China) *(spoke in Chinese)*: At the outset, I wish to thank Judge Robinson and Prosecutor Brammertz for their briefings on the work of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and on the implementation of the completion strategy. I also thank Judge Byron and Prosecutor Jallow for their briefings on the work of the International Criminal Tribunal for Rwanda (ICTR) and the implementation of the completion strategy.

We note that, since the last reports, the Tribunals have continued to work to carry out the completion strategy and have made further progress. We acknowledge such progress, but we also note with concern that neither Tribunal will be able to complete its work this year. The schedule for the completion strategy set out by the Security Council will not be met, and part of the work may even be postponed or extended until 2014. Of course, the delay is due to many factors and is understandable given that some could not have been anticipated by the Tribunals. However, it remains imperative that the completion strategy defined by the Security Council be pursued in earnest by all parties.

We hope that the Tribunals will, on the basis of their previous efforts, further explore effective means to speed up the implementation of the completion strategy. In this regard, we note that, according to the Tribunals' new trial schedules, the ICTR will have completed pre-trial preparations for all its current cases by the end of 2011, while the ICTY will have done so by the end of 2012.

I wish to emphasize once again that the handing over of cases and fugitives to the maximum extent possible to countries willing and able to handle them is a very important step in the completion strategy. We

hope that the Tribunals will continue to take measures to implement this step and we appeal to the countries concerned to provide full cooperation in this regard. We are ready to consider seriously any relevant proposal that will facilitate the Tribunals' referrals.

The Security Council Informal Working Group on International Tribunals is having consultations on the draft resolution on the residual mechanism of the Tribunals and has now started a third reading of the draft. We appreciate the work of the Informal Working Group and look forward to the early conclusion of the consultations. I wish to take this opportunity to thank Austria, as Chairman of the Working Group, and the Office of Legal Affairs for their unremitting efforts in the interest of the work of the Working Group.

Mr. Churkin (Russian Federation) *(spoke in Russian)*: We thank the Presidents and Prosecutors of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda for their information on the current state of affairs at the Tribunals and on measures being taken to complete pending legal proceedings.

The reports of the Tribunals and today's briefing are very important from a practical point of view because the Security Council, in its resolutions 1900 (2009) and 1901 (2009), affirmed that it would take a decision on a further extension of the terms of office of the judges, taking into account the updated schedule of proceedings prepared by the Tribunals. In its decisions, the Security Council has confirmed the timelines for the functioning of the Tribunals.

By now we should already have been moving towards a countdown to the completion of their work. However, the picture that has taken shape is dismal. One thing that is bewildering is the fact that, in December 2009, the Security Council received reports containing completely different timelines for the completion of proceedings. What has happened in the past six months that was so unforeseen and extraordinary that the ICTY, for example, is reporting a substantial increase in the length of all trials without exception?

We are not talking here of one- or two-month extensions. The case of Vojislav Šešelj is being drawn out for an additional 20 months beyond the information previously reported to the Council; that of Mićo Stanišić and Stojan Župljanin for an additional 14 months; that of Jovica Stanišić and Franko Simatović for an additional 13 months; and that of Zdravko Tolimir for an additional 12 months. This is true for every case.

Moreover, a number of the accused have been in custody for six or seven years already. Is such a practice really in line with universally recognized human rights norms and civilized standards for the administration of justice? Given the fact that the work of the Tribunals is entering its concluding phase, we would like to receive more realistic projections from them and, most importantly, to see these projections carried out in practice. We call on the Tribunals to exhibit the utmost concentration to carry out operational work on current trials and to show flexibility on technical issues.

One key factor in the effective completion of the Tribunal's mandates is ensuring the effective cooperation of States — and above all the States of the regions — with the Tribunals. In this connection, we note the positive assessments contained in the report of the ICTY Prosecutor Serge Brammertz about the level of cooperation of the Serbian authorities with the Tribunal. It is regrettable that other States in the European and African regions have not been successful in significantly increasing the effectiveness of their cooperation with the Tribunals or ensuring timely and effective responses to requests from the Prosecutors of the Tribunals.

The Security Council is actively preparing the model for the future residual mechanism that will partially inherit the tasks and prerogatives of both Tribunals. We can say with certainty that the Security Council's decision on this issue will set a precedent, for in the history of international justice there has been no case of an international tribunal completing its work. That is why it is so important to analyse in detail the whole host of issues related to the establishment of a new international structure, including its status, jurisdiction, working methods and cooperation with Member States.

The nature of the residual mechanism is still difficult to ascertain. However, our delegation long ago set out the basic parameters that we consider absolutely necessary. It must be a compact mechanism with clearly defined jurisdiction that operates on the basis of a fixed mandate and that exists for a finite period. In addition, the archives to be handed over to the mechanism should remain the property of the United

Nations. We believe that, if those conditions are fulfilled, it will be possible to create a genuinely effective structure that is capable, in an effective manner and at the highest professional level, to conclude the complex and politically sensitive process of restoring justice in the relevant regions and of bringing the guilty to justice.

The President (*spoke in Spanish*): I shall now make a statement in my capacity as the representative of Mexico.

My delegation thanks the Presidents and Prosecutors of the International Tribunals for Rwanda and the former Yugoslavia for the presentation of their semi-annual reports on the status of the completion strategies for their activities (see S/2010/259 and S/2010/270).

Mexico takes interest in the efforts that both Tribunals have made to speed up the execution of their judicial activities in a responsible and efficient manner, the progress made in implementing the completion strategies in the past six months, and the way they have ensured the application of justice and respect for the procedural rights of the accused. We are aware that judicial activity will always be subject to a series of unforeseen conditions and circumstances and that both Tribunals are addressing those in the best way possible. The actions taken by both Tribunals therefore give us the confidence to urge them to take additional measures to conclude their work as soon as possible and to make way for the establishment of the residual mechanism.

The reports before us this morning confirm that the Tribunals will not be able to conclude their work by the dates set in resolutions 1503 (2003) and 1534 (2004). Their work will therefore continue even beyond 2010. That is due, inter alia, to such issues as lack of cooperation, the difficulty of retaining qualified personnel, and difficulties in referring cases to national jurisdictions. Taken together, these pose serious challenges to ensuring that the conclusion of the Tribunal's work adheres to the dates set by the Council.

It is therefore important to provide both Tribunals with the means to allow them to conclude their judicial work as soon as possible. In that regard, it is necessary to extend the terms of first-instance judges of both Tribunals until at least the first half of 2011, and to review the appeals work up to the second half of 2012, in line with the provisions set out in resolutions 1900 (2009) and 1901 (2009).

The cooperation of States with the Tribunals is also key. In that regard, we call on the States involved to respond without delay to the requests of the specialized bodies of the Tribunals, in particular when it comes to finding and arresting fugitives — two in the case of the former Yugoslavia and 11 in that of Rwanda. In particular, we note the valuable judicial cooperation provided by the Government of Croatia. We urge it to continue that cooperation in connection with issues pending before the Tribunal.

We cannot ignore the fact that the Tribunals face the ongoing challenge of striking a balance between delivering justice, administrative efficiency, ensuring the basic rights of accused, witnesses and victims, and completing their work as soon as possible. Mexico therefore reiterates that the Security Council should pursue its pragmatic and flexible approach to the Tribunals' completion strategies. In our view, the most desirable option would be for the Tribunals to complete their work in the near future, but not on the basis of arbitrary dates. The progress in implementing the completion strategies that the Tribunals have shared with us contributes to ensuring that the establishment of the residual mechanism shall take place in a more manageable and efficient manner.

In the next six months, Mexico will continue to contribute to the effort to shape the residual mechanism in the context of the Informal Working Group on International Tribunals, concerning which our colleague from Austria has given us a very precise briefing. Despite those very detailed considerations, the Security Council should not fail to bear in mind the main goal of ensuring that justice is carried out in connection with the grave atrocities crimes against humanity committed in the context of the conflicts in the former Yugoslavia and Rwanda.

I now resume my functions as President of the Council.

I give the floor to the representative of Croatia.

Mr. Vilović (Croatia): Allow me to begin by congratulating you and your delegation, Mr. President, on your assumption of the presidency of the Security Council for this month and for the manner in which you are conducting the Council's work.

I would also like to begin by welcoming Presidents Byron and Robinson and Prosecutors Brammertz and Jallow and by thanking them for their briefings on the implementation of the completion strategies of the two Tribunals. Croatia welcomes the progress achieved thus far and hopes that the current intense pace of work at both Tribunals will be sustained in order to conclude their mandates in a timely and orderly manner.

We note concerns raised by the fact that the projected dates for the completion of trials will not be met. That said, Croatia firmly believes that the early closure of the Tribunals, albeit a legitimate objective, should not come at the expense of the mandate with which they were established or of respect for fair-trial guarantees. Let us not forget that late arrests and the remaining fugitives are the single most important obstacles to the early closure of the Tribunals.

With regard to the mandate of the International Criminal Tribunal for the Former Yugoslavia (ICTY), the mandate of the Tribunal must not be declared complete without bringing to justice Ratko Mladić and Goran Hadžić, the two remaining fugitives who have been indicted for the most atrocious crimes committed in Bosnia and Herzegovina and in Croatia, namely, the massacres in Srebrenica and Vukovar.

For its part, Croatia — an early advocate of establishing the ICTY — welcomes the Tribunal's accomplishments, which have shown that peace and justice are complementary. The Croatian Government remains firm in its commitment to sustaining its full and equivocal support for the Tribunal's efforts to close the impunity gap, thus advancing the rule of law and paving the way for reconciliation and cooperation by individualizing criminal accountability and providing justice and dignity to victims.

As my Government has made clear on many occasions, Croatia remains committed to full cooperation with the ICTY. Over the reporting period under consideration, the highest officials of our country remained engaged in direct dialogue with the Prosecutor, while the Ministry of Justice and the Office of the State Prosecutor maintained close, frequent and intense working relationships with the Office of the ICTY Prosecutor.

My delegation appreciates Prosecutor Brammertz's assessment, in which he stressed the overall responsiveness and general improvement in the quality of work undertaken by Croatian authorities. Last fall, Prime Minister Kosor established a special task force in order to deepen and, where necessary, broaden the work already undertaken by the administrative investigation conducted following the order issued by the Trial Chamber in June 2008. I would like to state my delegation's appreciation for the acknowledgment expressed by the Prosecutor and the members of the Council with regard to the notable results produced by the task force during the reporting period, which were contained in the seven reports on its activities delivered to the Trial Chamber and the Office of the Prosecutor.

I should also like to underline that the task force will continue to vigorously pursue several avenues aimed at finding, clarifying or accounting for missing documents. We are convinced that these additional explorations will only further strengthen the credibility of my Government's efforts.

In order to further confirm the extent of our efforts, I should like to highlight some of the results achieved. Following new insights gained by the task force, 69 persons were interviewed, houses, cars and offices were searched, and additional materials were seized. The task force submitted new criminal charges against nine persons on the grounds that they had destroyed or concealed archive materials, bringing the total of indicted persons to 13, and the total of convicted persons to four.

As referred to in paragraph 13 of the Prosecutor's report (see S/2010/270, annex II), I should like to highlight that criminal proceedings have been initiated in Croatia against several members of the special police forces for crimes allegedly committed in the village of Grubori in 1995 in the aftermath of Operation Storm. The complete court file, as well as subsequent updates, has been transferred to the Office of the Prosecutor.

In pursuing the path of full support to the Tribunal, we serve our shared goal of ensuring accountability for all crimes, with the aim of achieving justice, peace and reconciliation, as the best road map to a future of lasting security and prosperity in South-East Europe. As the Tribunal is beginning to downsize and wind down, strengthening relationships between the Office of the Prosecutor and national prosecutorial authorities becomes even more important. Strengthening skills and capacity at the national level — at which we

continue to deal with a growing war crimes caseload — is a crucial dimension of the Tribunal's legacy.

Croatia is determined to continue with domestic efforts to prosecute war crimes committed on its territory since 1991. To that end, it has not only developed a close working relationship with the ICTY, but also taken the lead in strengthening cooperation with prosecutorial authorities in the region. Only a few weeks ago, Croatia hosted, for the third time, the annual regional conference of State prosecutors from countries of the former Yugoslavia. In this context, we also welcome initiatives such as the Tribunal's legacy conference, which was held in February this year, as an opportunity to factor in the views and experiences of countries directly affected, in particular on issues in which we have lasting interest, such as the management of the Tribunals' archives.

Before concluding, I should like to extend my delegation's sincere gratitude to Ambassador Mayr-Harting of Austria and his colleagues who, over the past 18 months, have made dedicated efforts in steering the Informal Working Group on International Tribunals, notably in setting up a residual mechanism to replace the Tribunals. This is an issue of most direct relevance to my country and to the other countries affected by the Tribunals' jurisdictions, in particular as concerns such long-term issues as the management of archives, the protection of witnesses and the serving of sentences. Furthermore, the credibility of such residual mechanisms is part and parcel of the Tribunal's historical legacy. Croatia hopes that the Council will be able to provide timely and sustainable solutions for the residual issues.

The President (*spoke in Spanish*): I now give the floor to the representative of Serbia.

Mr. Starčević (Serbia): I, too, should like to congratulate you, Sir, on assuming the presidency of the Security Council this month.

At the outset, I wish to congratulate the President and the Prosecutor of the International Tribunal for the Former Yugoslavia (ICTY), Judge Patrick Robinson and Mr. Serge Brammertz, on all their efforts and the professionalism they consistently display in their work and in the submission of their reports. As it was in December 2009, the presentation of the cooperation between Serbia and the ICTY in these reports is in accord with Serbia's own assessment of the level of cooperation that has been reached so far. My Government appreciates the fact that the reports contain an accurate description of the efforts and actions undertaken by Serbia during the reporting period and their recognition by Judge Robinson and Prosecutor Brammertz.

Serbia continues in its endeavours to fulfil its legal and moral obligations relating to the work of the ICTY. It has managed to sustain the level of cooperation achieved in 2009, in accordance with the Prosecutor's recommendations in his previous reports. There are currently no outstanding requests for assistance in regard to the provision of documents, witness protection or access to State archives, and we continue to provide full assistance to the Trial Chambers, the Office of the Prosecutor and the Registry. Serbia thus considers that the level of its cooperation with the Tribunal remains high.

As far as the issue of fugitives is concerned, the efforts and commitment of the services engaged in tracking down and apprehending them continue to demonstrate Serbia's political will to successfully fulfil its outstanding responsibilities in regard to this issue. The Prosecutor's suggestions and recommendations included in the present report are already being implemented. Given the high level of cooperation established between the Republic of Serbia and the Tribunal, this additional improvement in the method of searching for the fugitives will, we hope, lead to the results both Serbia and the Tribunal are looking for.

I wish to mention here that the search is being conducted on a daily basis and that the authorities of the Republic of Serbia will not cease these operations until both fugitives are brought to justice. Serbia is well aware that the arrest of the two remaining fugitives will put an end to the remnants of the past that have burdened the recovery of Serbian society for some time.

Serbia would like to reiterate its continuing support for the ICTY completion strategy in its entirety, including the issues related to the potential residual mechanism and the location of the archives after the closure of the Tribunal. Serbia maintains the position communicated to the Security Council in October 2008 and March 2009, and reiterates its strong and consistent interest in this subject. It remains at the disposal of the Security Council for possible future discussions on this matter in order to contribute to the resolution of these important issues.

In conclusion, I wish to emphasize once again Serbia's commitment to full cooperation with the ICTY. The reports presented to the Council today affirm this commitment and testify to the usefulness of joint efforts to bring this undertaking to its successful end.

The President (*spoke in Spanish*): I now give the floor to the representative of Rwanda.

Mr. Gasana (Rwanda): I thank you, Sir, for the opportunity to contribute to this debate. I should like to congratulate you on assuming the presidency of the Council for the month of June.

My delegation wishes to thank the President and the Prosecutor of the International Criminal Tribunal for Rwanda (ICTR) for the presentation of their reports on the completion strategy for the ICTR (see S/2010/259). Let me also acknowledge the open and constructive efforts of the delegation of Austria in its capacity as Chair of the Informal Working Group on International Tribunals.

The Government of Rwanda remains steadfast in its commitment to supporting the Rwanda Tribunal's completion strategy, as called for in resolution 1503 (2003). As we have stated previously, we have continued to facilitate unfettered access to witnesses for both the defence and the prosecution. We have assisted the movement of witnesses to and from Arusha and have continued to ensure the security of witnesses through the Rwanda Witness Protection Service, which was established with the support of the Office of the Prosecutor. My Government has continued to support investigations initiated by both the prosecution and the defence without prejudice to either, and a detention facility that meets the standards set by the Tribunal is in place and is currently hosting convicts from the Special Court for Sierra Leone. My Government is therefore of the considered view that no pretext should remain to prevent the transfer of cases to Rwanda and that if the ends of justice are to be served in the eyes of Rwandans it is imperative that cases be transferred to our jurisdiction.

My Government recognizes the efforts of the Tribunal to comply with the completion strategy and in this regard wishes to highlight the following points. We welcome the Prosecutor's efforts to continue to enable referrals to national jurisdictions for the trials of eight of the remaining 11 fugitives and his insistence that that effort focus on Rwanda, "the only country that has jurisdiction and is currently willing to take up the eight cases earmarked for referral" (*S/2010/259, enclosure, para. 80*). In view of the progress my Government has made, which I have just outlined, it is our expectation that the applications for referral will be granted.

We take note of the efforts of the Prosecutor in tracking the 11 remaining fugitives and in that regard call upon all countries to extend the cooperation necessary to ensure that they are apprehended and brought to justice.

We take note of the issuance by the President of two Practice Directions which regulate the size of closing briefs and the timing for filing them and address the timing and conduct of site visits. We urge adherence to them in order to expedite the conduct of trials and ensure compliance with the agreed time standards.

We welcome the Tribunal's efforts on outreach and capacity building in Rwanda and encourage their continuation. These efforts, however, need to be complemented by decisions of the Tribunal, particularly in respect to referrals, in order for them to have efficacy in the view of Rwandans.

We take note of the progress that has been made in archiving the activities of the Tribunal. We wish to reiterate that it is our view that the archives of the Tribunal should be transferred to Rwanda upon completion of the Tribunal's mandate. This conviction is based on the fact that these records constitute an integral part of our history. They are vital to the preservation of the memory of the genocide and will play a critical role in educating future generations to ensure the prevention of genocide. We recognize the ongoing negotiations within the framework of the Informal Working Group on International Tribunals and will continue to engage in the process, in order to ensure an outcome that meets the desire of our Government to host the residual archives and ensures accessibility for the international community.

We share the view expressed in the report that "The commitment to completing the Tribunal's mandate requires that all efforts continue to ensure the arrest of the remaining fugitives" (*Ibid., para. 88*).

Allow me to address an issue of utmost concern to my Government: the increasing tendency to misrepresent, misinterpret and openly deny the 1994 Rwanda genocide against Tutsis, by a cohort of

members of the legal profession, academia and others associated with the perpetration of this most heinous of crimes. The revision and denial of the 1994 genocide of the Tutsi, a genocide recognised by the Security Council in its establishment of the ICTR, in our view, is not only morally reprehensible but also threatens the hard-earned peace and stability that Rwandans enjoy today. We will continue to ensure, without prejudice, that any individual who engages in revisionism or denial of the 1994 genocide of the Tutsi is brought to justice in accordance with our constitutional obligations.

In respect of the case to which the Tribunal President alluded in his remarks, allow me to state categorically that the accused was not in Rwanda for reasons linked to the Tribunal and that his arrest has no link whatsoever to his activities with the Tribunal — as was, by the way, recognized by the Tribunal's spokesperson, Roland Amoussouga, on 2 June 2010. My Government, however, has no intention of interfering or hampering the ability of defence counsel to represent their clients effectively and efficiently.

In conclusion let me reiterate my Government's continued commitment to supporting the Tribunal in successfully concluding its mandate.

The President (*spoke in Spanish*): I now give the floor to the representative of Kenya.

Mr. Kimemia (Kenya): Let me begin, Mr. President, by thanking you and the other members of the Security Council for inviting Kenya to participate in the proceedings of the Council today. By way of introduction, I am Francis Kimemia, Permanent Secretary for Provincial Administration and Internal Security of the Republic of Kenya.

At the outset, I wish to reiterate that Kenya is a strong supporter of and active player in the international criminal justice system. It is also important, in view of the context of this discussion, to highlight the role historically played by Kenya in the region, especially in providing a safe haven for refugees from destabilized neighbour States, from the 1970s to date. Today, we host more than 600,000 refugees from Somalia, the Sudan and other lands who have yet to return to their countries. However, we as a Government have always demanded that the refugees act within the rule of law — of course their human rights are observed — and where criminal elements have been discovered, we have responded within the tenets of international law. That accounts for the arrest of 14 persons who have already been handed over to the International Criminal Tribunal for Rwanda (ICTR) for prosecution. I would have expected Mr. Jallow to have commended Kenya, at least for this initiative.

In this regard, we appreciate the work of the Presidents of both the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the ICTR, and we commend them for the manner in which they have conducted the affairs of their respective Tribunals. However, the Government of Kenya wishes to comment with great concern on the persistent allegations that the Rwandan fugitive Félicien Kabuga is hiding in Kenya and that the Kenyan Government has refused to fully discharge its obligations with respect to his arrest. Kenya takes strong exception to these baseless and persistent imputations of complicity in this matter. No evidence has been adduced to the effect that Kenya is harbouring Mr. Kabuga. In any case, the Republic of Kenya has nothing to gain morally, socio-politically or economically by harbouring the said fugitive, especially when Kenya and Rwanda are enjoying very excellent relations.

I have listened to the allegations of the Prosecutor that Kenya has not provided evidence of the departure of Kabuga. I assume that this would have been expected, possibly, from the Department of Immigration. However, I believe that, because Kabuga has been declared a fugitive — and, as the Council knows, the United States Government immediately placed a reward of $5 million on Kabuga's head for anybody who either arrested him personally or gave evidence that led to his arrest — it would be almost foolish for anybody to really expect that Kabuga would walk up and present himself to an immigration officer, saying "I am Mr. Kabuga, and I want to leave" and go either to Brazil or to whichever country he might want to go to. It is very likely that he would run away through our porous borders and disappear like other fugitives who are on the run.

In a similar vein, it also appears to be a figment of the imagination to allege that Kabuga has been sighted in Kenya and that there is copious evidence of Kabuga's presence in Kenya. Again, it would be impossible that Kenyans, the majority of whom are poor people, would ignore the $5 million reward; that is true also of outsiders and the joint international security forces operating in Kenya.

In the search for Kabuga, the local and international community and our own parliament have been on our Ministry's back to make sure that this matter with the ICTR is concluded. There is media pressure too, as we have the largest concentration of civil society media in the region: Nairobi has the highest concentration. It is impossible that this man could be walking around Nairobi and not be arrested by anybody in spite of the $5 million reward on his head, which is still active to date.

In fact, we have arrested several persons purported to be Mr. Félicien Kabuga, only to find that these allegations were premeditated hoaxes by con men who imagined that they could get all or part of the $5 million. Our security services, led by none other than the Commissioner of Police himself, in collaboration with other international security agencies, the Federal Bureau of Investigation and other forces that are working with us, have spent vast resources going to distant districts of Kenya in search of these fraudulent Félicien Kabuga, only to return, having discovered that this was just phantom information and that their searches had been wasted. We have left no stone unturned. We have invited international security organs to assist Kenya in the search, and there have been no results to date. All we get are allegations and accusations that we are harbouring this fugitive, Kabuga, who, as I said, is of no socio-economic, political or ideological value to the country.

References by the Prosecutor in his report presented this morning are similar in scope and content to what has become a recurrent ritual of presentations to the Security Council. It is mentioned in the report that the last mission of the Prosecutor to Kenya was in March 2009. As members know, Kenya is just about 100 kilometres away from where my colleague the Prosecutor lives. I would encourage him to make more visits to Kenya so that this matter can be disposed of expeditiously. And, possibly, he could report to the Security Council on his positive results so that we do not engage in blame games that, ultimately, do not help the region or the process of justice for our country. We believe that impunity must be eliminated in its entirety. Indeed, the Kenyan and Rwandan security services and other security organs are collaborating and cooperating on this matter, including through inspection of premises and perusal of documents that are deemed to be relevant.

A lot of work has been carried out by the Government of Kenya in collaboration with other relevant investigation agencies, including the ICTR itself and Rwandan and United States security agencies. The findings of these collaborative investigations have regularly been communicated to the ICTR. It is disappointing to note that the Prosecutor has not updated his report on this matter accordingly.

I wish to reiterate our previous presentations to the Council and wish further to state that Kenya has given full support and assistance to the ICTR since its inception on the issue of referrals, including in the search for Félicien Kabuga. Kenya has always cooperated and worked closely with the ICTR with a view to tracing, arresting and surrendering genocide suspects to the Tribunal to face justice. As I said, indeed, 14 suspects have already been arrested and handed over for prosecution. That is the largest number of indictees to be apprehended and handed over to the ICTR by any single jurisdiction.

The Government of Kenya has also played a key role in the relocation, protection and facilitation of movement of witnesses for the Tribunal in a bid to ensure that the ends of justice are met expeditiously. In doing so, the Government has utilized immense resources in the form of material, equipment and personnel. Indeed, we have a police wing that remains dedicated to this issue.

In 2007, the Government of Kenya formed a joint investigation team to search for and apprehend Félicien Kabuga, as well as to trace his assets and bank accounts, including those of his associates in Kenya. This team discharged its mandate and submitted periodic reports of its findings both to the Kenya Government and the Tribunal. Among the team's findings was that Félicien Kabuga's wife had invested in real estate and that the rent collected was being submitted to a local financial institution. Further investigations revealed that these funds were transferred and credited to the wife's bank account in Belgium, where Kabuga's wife and children reside and hold Belgian passports. Kenya's Attorney-General promptly obtained orders from the High Court to freeze the bank account in Kenya. And as we speak now, the wife has disputed the freezing of the bank account; the matter is still ongoing in court.

The Kenyan and ICTR investigators have jointly continued to follow up information on alleged

sightings of the fugitive in various parts of Kenya. Prompt investigations have been carried out and have yielded no fruit. As I mentioned, the full particulars related to the investigations and actions undertaken by the Kenyan Government are within the full knowledge of the Tribunal. The joint investigation team continues to carry out its mandate with the full support of the Kenyan Government.

In view of what I have said, Kenya finds the incessant accusations of complacency in arresting Félicien Kabuga misleading, malicious and lacking in merit. In this regard, we urge the ICTR and the international investigative agencies to widen the search for Félicien Kabuga to other jurisdictions beyond Kenya.

We also want to refute the assertion that requests for the ICTR to visit Kenya have been made to us and been denied. We have not denied any such requests. The Prosecutor and his team are welcome to visit Kenya on the shortest notice, including at the time we leave this meeting or this place. If the Prosecutor would like a date to visit us, he is welcome: he is free to come and conduct his work in Kenya any time. I want to assure him of the full cooperation of the Government of Kenya so that this matter can be wiped out of the process, so that justice can be seen to be done, and so that there can be an end to these allegations.

As part of its continued and unreserved support for the work of the ICTR, Kenya concluded an extradition treaty with the Republic of Rwanda in September 2009, which provides, inter alia, for the extradition of Rwandan genocide suspects. The treaty has already been ratified and is fully operational. It underscores Kenya's commitment to and seriousness in the apprehension of all perpetrators of the various crimes covered by the treaty and their extradition to Rwanda to face justice.

The Kenyan investigators, together with the Rwandan security agencies, the United States of America, the ICTR and other partners continue to collaborate in the search for Félicien Kabuga. It is therefore premature for the Prosecutor to request the President of the ICTR to notify the Security Council of Kenya's alleged failure to cooperate with the Tribunal.

Let me conclude by reassuring the Council of Kenya's unwavering commitment to fully cooperating with the Tribunal and the Council in support of international criminal justice.

The President (*spoke in Spanish*): I give the floor to Mr. Jallow to respond to the comments that have been made.

Mr. Jallow: I would like to thank you, Mr. President, and the representatives before the Council for their remarks and their support for the work of the Tribunals. I only have a brief response to the remarks of the representative of Kenya concerning the case of Félicien Kabuga.

On numerous occasions, we have commended the Government of Kenya for having assisted us in the arrest and transfer of 14 fugitives. That is a fact, and it is stated in the document distributed before the Council (S/2010/259) that Kenya has collaborated with us in the past in arresting and transferring that number. We continue to be grateful for that. But it is also worth noting that at the time those people were arrested, Félicien Kabuga was also in Nairobi and was one of those that should have been arrested and transferred at the same time, but he escaped the net.

Briefly, last year I had a meeting with the Minister of the Interior and National Security of Kenya, whom the representative here represents. He comes from his Office. That meeting was attended by a representative of the Secretary-General. At that meeting in Nairobi, we agreed on the information that we requested.

First, as the Kenyans were saying that he had left the country, which is an acknowledgement by them that he had been in there, they should have provided us with information concerning the circumstances of his departure. Secondly, they should have granted access by our investigators and the Kenyan police who are members of the joint task force to specific Government files containing information on Kabuga. They should have affirmed that they would take further steps concerning his property and bank accounts. That is what we agreed at the meeting.

Since then, I have sent many requests for the information. There has been no response. It has not been provided. I have requested that I be told when our investigators can go to Nairobi to work with the Kenyan police and examine the records relating to Kabuga, but there has been no response. As a matter of fact, we sent our latest request in March for a meeting

with the Kenyan authorities — the Attorney-General, the Minister of the Interior and the Minister for Foreign Affairs. It was sent by way of a note verbale channelled through the Ministry of Foreign Affairs of Kenya. It was followed up with reminders, and none of them have been responded to. I am therefore a little surprised at the allegations that are now levelled at us.

Nonetheless, I welcome the statement of the representative of Kenya that his authorities are open to further discussion on this subject and that we are welcome to go and discuss it with them in Nairobi. I would like that invitation to become a reality and for us to have a positive response from the Kenyan authorities welcoming us to Nairobi, on a date to be agreed, to discuss this particular issue with a view to our being provided with the information on Félicien Kabuga that they have promised to provide since last year.

We have accepted the invitation that has been extended to go to Nairobi, but we would like it to be made definite, together with definite dates, so that it can be arranged. I look forward to having such a meeting, but clearly, with the evidence before the Council, it is evident that Kabuga was in Kenya for a considerable period of time. The fact that it is now being said that he has left the country is an acknowledgement of that fact in itself. His presence there is also supported, as can be seen from the dossier before the Council, by documentary evidence concerning his visas, permits, business registrations et cetera, and by the fact that last year, at our request, the Attorney-General of Kenya had to go to court to try and seize a property registered in Kabuga's name in Nairobi. All this supports our statements that he has lived in Kenya and has had business activities in that country.

We now need to move forward to make sure that the agreement that we entered into last year for the provision of the information I have described is implemented. I look forward to the Kenyan authorities really implementing their decision to sit with us to discuss it further.

The President (*spoke in Spanish*): There are no further speakers inscribed on my list.

I would like once again, on behalf of the Council, to thank President Robinson, President Byron, Prosecutor Brammertz and Prosecutor Jallow for their presentations to the Council today.

The meeting rose at 1.20 p.m.